

Appln No. 10/786,918
Amdt date March 2, 2006
Reply to Office action of November 2, 2005

REMARKS/ARGUMENTS

Claims 1, 2, and 4-12 remain in the present invention, of which claim 1 is independent. Claims 1, 2, 4, 5, and 8-12 have been amended without introducing any new matter into the present application. Claim 3 has been cancelled. Applicants respectfully submit that this amendment places the application in condition for allowance. Applicants respond to each point raised by the Examiner in the November 2, 2005 Office action as follows:

Objection to the Specification

The Abstract has been objected to because its language is in claim format rather than narrative format. The abstract has been amended, and put in a narrative format. Thus the Examiner's rejection has been obviated.

Objection to Claim 1

Claim 1 has been objected to because the Applicant uses both the terms "miniplate" and "plate." Applicants have amended claim 1 by replacing the term "plate," wherever it appears, with the term "miniplate." Thus, the Examiner's objection has been obviated.

Claim Rejections under 35 U.S.C. § 112

Claims 1, 3, and 8 have been rejected under 35 U.S.C. § 112, as allegedly being indefinite. The Examiner has pointed out various locations where the claims lack proper antecedent basis. Applicants have amended the claims at the Examiner's areas of concern, so that they now have proper antecedent basis. Therefore, the Examiner's rejections have been obviated.

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Claim Rejections under 35 U.S.C. § 101

Claims 3 and 9 have been rejected under 35 U.S.C. § 101, as allegedly positively reciting part of a human body in combination with the structure of the claimed invention. Claim 3 has been cancelled and thus the Examiner's rejection of it is now moot.

Claim 9 has been amended and in its amended form states that "the adjacent hole for an attachment screw are **designed to cooperate** with the widest proximal part of the phalange and are **adapted** to be positioned approximately on the same transverse axis (x, x') of the phalange." Therefore, claim 9 does not positively recite a part of the human body in combination with the claimed invention, but instead merely claims that the present invention is adapted/designed to function with a part of the human body.

Claim Rejection under 35 U.S.C. § 102

Claims 1-3, 5, 9, and 10-12 have been rejected under 35 U.S.C. § 102 as allegedly anticipated by Berentey et al. ("Berentey" U.S. Patent No. 4,651,724). Applicants respectfully traverse these claim rejections because the cited reference fails to disclose all elements of the present invention.

While Berentey discloses "a bone joining plate. . .having an oblong plate curved according to the bone surface," Berentey fails to disclose a miniplatè, which "has an anatomic profile in its frontal plane and in its sagittal plane, wherein the frontal plane has a widened area to approximately cover the widest proximal end." (See Col. 1, Ins. 41-43). Berentey's frontal plane consists solely of an oblong, popsicle stick-shaped, plate with multiple holes. (See Fig. 1). The claws 2 located at one end of Berentey are not part of the frontal plane as they angle down from the frontal plane, thus forming a secondary plane. (See Fig. 2).

Therefore, Applicants submit that Berentey does not disclose every element of claim 1 of the present invention and thus claim 1 is patentable over Berentey. Because claims 2, 5, 9, and 10-12 depend, either directly or indirectly, from claim 1, these claims are also patentable over

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Berentey for at least the reasons presented above. Accordingly, Applicants respectfully request that the rejections to claims 2, 5, 9, and 10-12 under 35 U.S.C. § 102 be reconsidered and withdrawn, and the claims allowed.

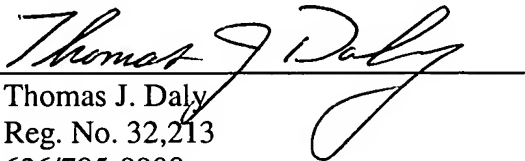
Claim Rejection under 35 U.S.C. § 103(a)

Claims 6 and 7 have been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Berentey in view of Bailey ("Bailey" U.S. Patent No. 5,607,430). However, because claims 6 and 7 depend directly from claim 1, and Bailey does not overcome the deficiencies of Berentey in rejecting claim 1, claims 6 and 7 are patentable over Berentey in view of Bailey. Accordingly, Applicant respectfully requests that the rejections to claims 6 and 7 under 35 U.S.C. § 103(a) be reconsidered and withdrawn, and the claims be allowed.

Conclusion

In view of the foregoing amendments and remarks, Applicants respectfully submit that this application, including claims 1, 2, and 4-12, is in condition for allowance and, accordingly, a timely indication thereof is respectfully requested.

Respectfully submitted,
CHRISTIE, PARKER & HALE, LLP

By 
Thomas J. Daly
Reg. No. 32,213
626/795-9900

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Abstract

A miniplate designed for the osteosynthesis of a phalange P1 (first phalange) is disclosed. The miniplate comprises an anchor and positioning stud at one of its ends approximately perpendicular to the plate, and an adjacent hole for an attachment screw, designed to cooperate with the widest proximal end of the phalange. The miniplate further comprises at least one other hole for an attachment screw in the miniplate and designed to cooperate with a distal end of the same phalange. The proximal end has a widened area, where the stud and the hole intended for the adjacent hole for an attachment screw are designed to cooperate with the widest proximal end of the phalange.